

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

**HOMER CHEESE AND
TANIKKA CHEESE**

VS.

GEICO INDEMNITY COMPANY

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§

**C.A. NO. _____
(JURY)**

NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now, **GEICO INDEMNITY COMPANY** (hereinafter referred to as “**GEICO**”), Defendant in the above-styled and numbered cause, and files this Notice of Removal of the present action from the 157th Judicial District Court of Harris County, Texas to the United States District Court for the Southern District of Texas, Houston Division. In connection with this Notice of Removal, GEICO would respectfully show unto the Court as follows:

I. Introduction

1. This lawsuit began on or about May 3, 2017 when Plaintiffs filed their Original Petition in Cause No. 2017-29914 in the 157th Judicial District Court of Harris County, Texas, styled *Homer Cheese and Tanikka Cheese v. GEICO Indemnity Company*. GEICO was served with Plaintiffs’ Original Petition on June 12, 2017. The suit arises from an automobile accident that occurred on July 27, 2015 in the State of Michigan.

II. Grounds for Removal

A. Complete Diversity of Citizenship Exists Between the Parties and the Amount in Controversy Exceeds \$75,000.

2. Removal is proper because there is complete diversity of citizenship between the parties and the alleged amount in controversy exceeds \$75,000, exclusive of interest and costs. *See* 28 U.S.C. § 1332(a)(1).

3. Plaintiffs are residents and citizens of Texas. *See* Pl.'s Orig. Pet., p. 1. Defendant, GEICO Indemnity Company, is incorporated in Maryland, and its principal place of business is located in Maryland.

4. Plaintiffs' Original Petition alleges that they seek "relief under Tex. R. Civ. P. 47(c)(5), in a maximum amount of \$200,000." *Id.* Thus, the amount in controversy exceeds \$75,000. *See* 28 U.S.C. § 1332(a)(1).

B. Venue is Proper in This Division and in This District.

5. Plaintiffs filed this action in Harris County, Texas. The Houston Division of the Southern District of Texas encompasses Harris County, Texas. *See id.* § 124(b)(2). Thus, this district and division embrace the place where the state court action is pending. *See id.* § 1441(a).

III. Procedural Requirements for Removal

6. GEICO was served on June 12, 2017. This Notice of Removal is being filed on July 12, 2017. Accordingly, this Notice of Removal is timely filed within 30 days of when GEICO received a copy of Plaintiffs' Original Petition and within one year of the commencement of this suit. *See id.* § 1446(b).

7. A copy of this Notice of Removal will be filed with the Harris County District Clerk's office and served on the Plaintiffs promptly. *See id.* § 1446(d); *see also Nixon v. Wheatley*, 368 F. Supp. 2d 635, 640 (E.D. Tex. 2005).

8. Pursuant to 28 U.S.C. § 1446(a) and Local Rule 81 of the Southern District of Texas, this Notice of Removal is accompanied by the following documents:

- Exhibit A: An index of matters being filed;
- Exhibit B: The state court docket sheet, all executed process in the case, all pleadings asserting causes of action, all answers to such pleadings, and all orders signed by the state judge;
- Exhibit C: A list of all counsel of record, including addresses, telephone numbers, and parties represented.

9. The filing fee has been paid to the Clerk.

10. The filing of this notice, along with the filing of the notice in the state court and service of the notice upon Plaintiffs' counsel, serves immediately to confer exclusive jurisdiction of this cause upon this Court, and divests the state court of all jurisdiction over these proceedings and claims.

IV. Prayer

11. WHEREFORE, PREMISES CONSIDERED, Defendant, **GEICO INDEMNITY COMPANY**, prays that the above-styled action now pending in the 157th Judicial District Court of Harris County, Texas be removed to this Honorable Court pursuant to the Court's diversity jurisdiction, that upon final trial, judgment be rendered that Plaintiffs take nothing by his suit against Defendant, and for such other and further relief to which Defendant may be justly entitled.

12. This Notice of Removal is filed subject to and without waiver of any defenses or objections to Plaintiffs' Original Petition as allowed by the Federal Rules of Civil Procedure or by any applicable law.

Respectfully Submitted,

GERMER PLLC

America Tower
2929 Allen Parkway, Suite 2900
Houston, Texas 77019
(713) 650-1313 – Telephone
(713) 739-7420 – Telecopier

By: /s/ Barbara L. Hachenburg

Barbara L. Hachenburg

Federal Bar No. 20036

Texas Bar No. 08667070

bhachenburg@germer.com

**ATTORNEY IN CHARGE FOR
DEFENDANT, GEICO INDEMNITY
COMPANY**

Of Counsel:

GERMER PLLC

Mark B. Shutt
State Bar No. 24085583
Federal I.D. No. 2182326
America Tower
2929 Allen Parkway, Suite 2900
Houston, Texas 77019
Telephone: (713) 650-1313
Facsimile: (713) 739-7420
Email: mshutt@germer.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing instrument was forwarded to all known counsel pursuant to the Federal Rules of Civil Procedure on this the 11th day of July, 2017.

The Dunk Law Firm, PLLC
Brenna L. Sanchez
4505 Caroline Street
Houston, TX 77004

/s/ Barbara L. Hachenburg

Barbara L. Hachenburg